



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,409	03/12/2004	Kenji Tsukada	Q80436	5988

23373 7590 06/01/2005

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER

MILLER, ROSE MARY

ART UNIT PAPER NUMBER

2856

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/798,409	TSUKADA ET AL.	
	Examiner	Art Unit	
	Rose M. Miller	2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,5 and 10-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,5 and 10-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/917,217.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/18/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Or

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 4-5, and 10-12 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by **Tsukada et al. (JP 2001-146030)**.

Tsukada et al. discloses the claimed invention in Figures 1(A) – 1(C), Figure 4, Figures 10(A) – 10(C), Figures 25(A) – 25(C).

As Applicant's Foreign Priority predates this reference, this rejection under 35 U.S.C. 102(a) can be overcome by the perfection of Applicant's claim for Foreign Priority. This is done by the submission of a certified translation of Applicant's foreign priority documents.

3. Claims 1, 4-5, and 10-12 are rejected under 35 U.S.C. 102(e) as being anticipated by **Usui et al. (US 6,536,861 B1)**.

Usui et al. '861 discloses the claimed invention in Figures 22(A) – 22(C), Figures 32(A) – 32(C), Figure 47(B), Figures 111(A) – 111(C), column 19 lines 15-30, column 19 lines 54-65, column 20 lines 36-40, column 22 lines 37-59, column 23 line 66 – column 24 line 8, column 24 line 39-46, column 32 lines 36-65, column 45 line 3-24, and column 86 line 47 – column 87 line 3.

The applied reference has a common assignee and two common inventors with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e)

might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

4. Claims 1, 4-5, and 10-12 are rejected under 35 U.S.C. 102(e) as being anticipated by **Usui et al. (US 2003/0140694 A1)**.

Usui et al. '694 discloses the claimed invention in Figures 20(A) – 20(C), Figure 28(B), Figures 29(A) – 29(C), Figures 43(A) – 43(C), Paragraphs [0138] – [0146], Paragraphs [0150] – [0157], Paragraphs [0212], Paragraphs [0223] – [0226], and Paragraphs [0256] – [0258] .

The applied reference has a common assignee and two common inventors with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

5. Claims 1, 4-5, and 10-12 are rejected under 35 U.S.C. 102(e) as being anticipated by **Usui et al. (US 6,470,744 B1)**.

Usui et al. '744 discloses the claimed invention in Figures 20(A) – 20(C), Figure 28(B), Figures 29(A) – 29(C), Figures 44(A) – 44(C), column 20 line 18 – column 23 line 42, column 24 lines 16-52, column 24 line 63 - column 25 line 13, column 33 lines 35-56, column 35 line 66 – column 36 line 50, and column 46 lines 17-60.

The applied reference has a common assignee and two common inventors with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this

application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

6. Claims 1, 4-5, and 10-12 are rejected under 35 U.S.C. 102(e) as being anticipated by **Usui et al. (US 6,799,820 B1)**.

Usui et al. '820 discloses the claimed invention in Figures 20(A) – 20(C), Figure 28(B), Figures 29(A) – 29(C), Figures 43(A) – 43(C), Figures 76(A) – 76(C), column 15 line 34 – column 18 line 68, column 19 lines 16-54, column 28 lines 47-67, column 31 lines 10-62, column 39 line 42 – column 40 line 18, and column 60 line 20 – column 61 line 7.

The applied reference has a common assignee and two common inventors with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

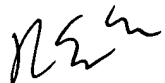
Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rose M. Miller whose telephone number is 571-272-2199. The examiner can normally be reached on Monday - Friday, 7:30 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on 571-272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2856

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



RMM

27 May 2005



HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800